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**REMARKS**

This paper is filed in response to the Office Action dated April 25, 2008. Applicant acknowledges with appreciation the Examiner's withdrawal (in part) of the previous restriction requirement set forth in the Office Action dated October 3, 2007. Claim Groups I & II have been rejoined, leaving Claims 1-13, 17, 22, 26-28, 30, 33-39, 43-44, 52, and 57-69 pending in the application.

Claim 30 has been amended herein to properly depend from Claim 27.

In the present Office Action, the Examiner is requiring a further election as between allegedly patentably distinct species of the generic invention:

- A.           Group I   (Claims 1-13, 17, 22, 26-28, 30, 33-39, 43-44, and 52),  
drawn to a method of measuring forms of Factor XIIa; and
- B.           Group II   (Claims 1 and 57-69), drawn to methods of measuring  
forms of factor XIIa in subjects with a disease or  
disorder.

If Species A (Group I) is elected, then the applicant is required to further elect a method, sample type, and form of Factor XIIa as set forth in Species C-E.

The Examiner reasoned as follows:

"The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: each species is directed to methods requiring independent and distinct reagent compositions, assay, formats, and/or sample types." (Office Action dated April 25, 2008, page 5.)

Applicant traverses the requirement for the election of a species.

First, Applicant notes that the species requirement, at least in terms of Species A and B, is identical to the previous restriction Groups I & II, the restriction of which has been withdrawn and the groups rejoined. The result of this newly issued restriction (species election) effectively vitiates the benefit of the rejoinder of Groups I and II.

As Applicant previously noted, the claims of invention Groups A and B represent *one method* wherein the particular sample to be used in the method is further defined in Claims 57-69. That is, Claim 1 recites methods for detecting forms of activated Factor XII in a sample. Claim 57, which the Examiner characterizes as not relating to a single general inventive concept, depends from Claim 1, and merely

specifies that the *sample* is obtained from a subject having a disease or disorder. Accordingly, no basis is seen to exist to separate the claims of Group I from the claims of Group II.

Again, the MPEP notes:

"Although lack of unity of invention should certainly be raised in clear cases, *it should neither be raised nor maintained on the basis of a narrow, literal or academic approach*....rigid rules cannot be given and each case should be considered on its merits, the *benefit of any doubt being given to the applicant*." MPEP §1850 (II).

Applicant submits that restricting claims which merely specify the source of the sample to be used in the claimed method is contrary to the international standards, and, at best, is arbitrary and academic, and therefore contrary to the MPEP regulations.

Accordingly, because all of the claims of species A (Group I) and species B (Group II) are directed to one method, wherein the particular sample to be used in the method is further defined in Claims 57-69 (Group II), Applicant submits that the claims of Group I & II relate to a single inventive concept, and a search of the art relevant to the Group I claims will reveal all the art relevant to the Group II claims, and vice versa. The claims are in a form and are of the sort that is properly viewed as relating to a single invention that should not be subject to an election of species.

#### Conclusion and Provisional Election

Applicants submit that in view of the foregoing remarks all the pending claims are seen to relate to a single inventive concept, and the claims are in a form and are of the sort that is properly viewed as relating to a single invention that should not be restricted. Applicants request that the restriction (election of species) requirement of the Office Action of April 25, 2008 be reconsidered and withdrawn.

Although, for reasons set forth above, Applicants believe that the restriction is improper and uncalled for, and without in any way acquiescing in the reasons for the requirements set forth in the Office Action, but in order to be fully responsive to the Office Action, Applicant elects Species Group B, i.e., Group II, Claims 1 and 57-69.

#### Rejoinder

As noted by the Examiner:

**"Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claims**

as provided by 37 CFR 1.141.” (Office Action dated June 24, 2008, emphasis added.)

Additionally, Applicants direct the Examiner’s attention to MPEP 806.04(d), which states:

“Once a claim that is determined to be generic is allowed, **all of the claims drawn to species in addition to the elected species which include all the limitations of the generic claim will ordinarily be obviously allowable in view of the allowance of the generic claim**, since the additional species will depend thereon or otherwise include all of the limitations thereof.” (Emphasis added.)

Respectfully submitted,



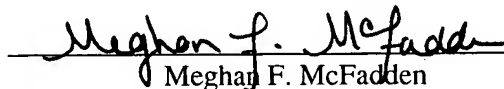
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July 25, 2008

date

  
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